



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Andreas Fellinger
Serial No. : 09/308,408
Filed : June 28, 1999
Title : STORAGE DEVICE FOR MEDICAL SWABS
Attorney File : RO0206US.CPA (#90568)

Assistant Commissioner for Patents
Box CPA
Washington, D.C. 20231

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LETTER

Dear Sir:

In the Examiner's Advisory Action mailed January 29, 2002, the Examiner states that Applezweig clearly states that the envelopes 11 are formed of a transparent frangible material and nothing in the disclosure prevents one from applying pressure on the cover of the envelope to puncture therethrough. In addition, the Examiner states that Applezweig uses the same type of material as applicant. Also, the Examiner states that Applezweig, on column 9, lines 34-36, even utilizes a film of foil packaging which is commonly known in the packaging art as easily frangible by application of pressure on the cover thereof. However, applicant respectfully points out that Applezweig's envelopes are formed of two bands of heat-sealable material, see column 4, lines 8-10.

EXPRESS MAIL CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that the foregoing Letter and any document(s) referred to as attached hereto is being deposited with the United States Postal Service on the date indicated below in an envelope as "Express Mail Post Office to Addressee" service mailing Label Number EV076802687US addressed: Assistant Commissioner for Patents, Box CPA, Washington, D.C. 20231.

Date: February 28, 2002
C:\...\Apps\RO\RO0206US.CPA remarks

-1-

Katherine R. Vieyra

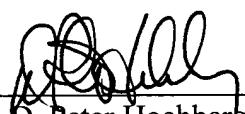
Both of these bands are of the same frangible material. Applicant's envelopes, by contrast, are formed by a flexible base and a cover layer, or, in the alternative, a base film and a cover film. Applicant discloses a flexible base layer made of polyamide/polyethylene and a flexible covering layer made of sterilization kraft paper, see page 3, lines 20-22. Applicant's base layer is thicker than its covering layer which is distinct from Applezweig where the two layers are the same. As the covering layer is thinner, it can be torn though by a person desiring to remove the contents of the package. Since the base layer is thicker, it will not break or tear when the covering layer is torn. This is in contrast to Applezweig, wherein the contents of the envelopes are generally removed by breaking both layers, that is, by tearing both the top and bottom layer forcing the contents out. Thus, applicant submits that its invention is patentably distinct from Applezweig.

No new matter has been added in the amendment previously filed on January 18, 2002.

Accordingly, prosecution on the merits hereof is respectfully requested.

Respectfully submitted,

By:



D. Peter Hochberg
Reg. No. 24,603

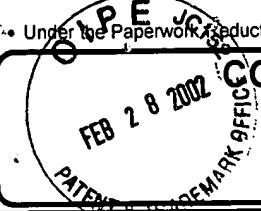
DPH/ KRV

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03-01-02

CPA / 3728
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CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

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CHECK BOX, if applicable:
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Address to:

Assistant Commissioner for Patents
Box CPA
Washington, DC 20231

Attorney Docket No. of Prior Application	RO0206US.CPA (#90568)
First Named Inventor	Andreas Fellinger
Examiner Name	Shian T. Luong
Group Art Unit	3728
Express Mail Label No.	EV076802687US

This is a request for a continuation or divisional application under 37 CFR 1.53(d),
(continued prosecution application(CPA)) of prior application number 09 / 308,408,
filed on June 28, 1999, entitled STORAGE DEVICE FOR MEDICAL SWABS

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice charges to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. Enter the unentered amendment previously filed on January 18, 2002 under 37 CFR 1.116 in the prior nonprovisional application.
2. A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. **DELETE** the following inventor(s) named in the prior nonprovisional application:
.....
.....
.....
 - b. The inventor(s) to be deleted are set forth on a separate sheet attached hereto:
4. A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement(IDS) is enclosed:
 - a. PTO-1449
 - b. Copies of IDS Citations

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

03/04/2002 AWONDAF1 00000024 09308408

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740.00 DP

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• CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c) or (j))	7 -20* =	0	x \$ <u>18.00</u> =	\$ 0.00
	INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))	3 -3** =	0	x \$ <u>84.00</u> =	0.00
	MULTIPLE DEPENDENT CLAIMS (if applicable) 37 CFR 1.16(d))			+ \$ _____ =	
				BASIC FEE (37 CFR 1.16)	740.00
			Total of above Calculations =		740.00
	Reduction by 50% for filing by small entity (Note 37 CFR 1.27).				
	* Reissue claims in excess of 20 and over original patent.			TOTAL =	
	** Reissue independent claims over original patent.				740.00

6. Small entity status: Applicant claims small entity status. See 37 CFR 1.27.

7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 08-2441:

- a. Fees required under 37CFR 1.16.
- b. Fees required under 37CFR 1.17.
- c. Fees required under 37CFR 1.18.

8. A check in the amount of \$_____ is enclosed.

9. Payment by credit card. Form PTO-2038 is attached.

10. Applicant requests suspension of action under 37CFR 1.103(b) for a period of _____ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.

11. New Attorney Docket Number, if desired _____
[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]

12. a. Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
b. Return Receipt Postcard (Should be specifically itemized, See MPEP 503)

13. Other: _____

NOTE: The prior application's correspondence address will carry over to this CPA
UNLESS a new correspondence address is provided below.

14. NEW CORRESPONDENCE ADDRESS

<input checked="" type="checkbox"/> Customer Number or Bar Code Label	28672	or <input type="checkbox"/> New correspondence address below			
(Insert Customer No. or Attach bar code label here)					
Name					
Address					
City		State		Zip Code	
Country		Telephone		Fax	

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	D. Peter Hochberg
Signature	
Registration No. (Attorney/Agent)	24603
Date	February 28, 2002